



Crl.O.P.(MD)No.4037 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.08.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.4037 of 2023

B.Ravichandran

... Petitioner

Vs.

1. The Superintendent of Police,
Sivagangai District,
Sivagangai.

2. The Inspector of Police,
District Crime Branch,
Sivagangai District.

3. I.Abdul Khadhar

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the respondents 1 and 2 not to harass the petitioner under the guise of enquiry in the nature of civil complaint which arising out of mortgage deed dated 26.07.2021 except following the due process of law by considering the representation of the petitioner dated 24.02.2023.

For Petitioner : Mr.G.Karuppiah

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)
for R1 and R2
Mr.S.P.Vijay Nivas for R3



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ORDER

This petition has been filed seeking for a direction to the respondents police not to harass the petitioner under the guise of enquiry in respect of a civil complaint arising out of a mortgage deed dated 26.07.2021.

2. The case of the prosecution is that the petitioner borrowed a sum of Rs.25,00,000/- by mortgaging certain properties with the third respondent/defacto complainant by the registered mortgage deed dated 26.07.2021 *vide* Document No.2099/2021 on condition that the petitioner shall redeem his property within a period of one year. However, the petitioner could not mobilize the funds and redeem the properties within one year. The third respondent has lodged a complaint against the petitioner to the respondents police thereby the respondents police are harassing him under the guise of inquiry thereby suitable directions are sought for.



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3. In this backdrop, it is submitted by the learned counsel for the petitioner as well as the third respondent/defacto complainant that the parties have settled the dispute by way of compromise between them amicably before the Tamil Nadu Mediation and Conciliation Centre attached to this Court and compromise memo duly signed by the parties and by their respective counsel has been filed before this Court.

4. In the case of ***Ramgopal and Ors. v. The State of Madhya Pradesh***, reported in ***2021 (6) CTC 240***, the Hon'ble Supreme Court of India reiterated the exercise of powers under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings in respect of non-compoundable offences. The relevant paragraphs read as under:-

"18. It is now a well crystallized axiom that plenary jurisdiction of this Court to impart complete justice under Article 142 cannot *ipso facto* be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces



this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sumup and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to



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and after the occurrence of the purported offence and/or other relevant considerations."

5. This Court, at the request of the learned counsel for the parties, directed the petitioner and the third respondent/defacto complainant to appear for mediation before the Tamil Nadu Mediation and Conciliation Centre attached to this Court and as the matter was settled the Deputy Registrar (Lok Adalat/Mediation and Conciliation Centre) of this Court has sent a report to that effect.

6. It is submitted that the the petitioner borrowed a sum of Rs.25,00,000/- from the third respondent/defacto complainant and the dispute arose between them when the petitioner could not return the money within the stipulated period. The dispute between the parties is purely civil in nature. However, since both the parties have settled the disputes amicably, in order to make the complete justice, the compromise between the petitioner and third respondent/defacto complainant can be recorded.



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7. Considering the above, no useful purpose will be served by keeping the matter pending.

8. In the result, this Criminal Original Petition is allowed. The compromise memo is recorded and the same shall form part of this order.

29.08.2023

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



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To

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1. The Superintendent of Police,
Sivagangai District,
Sivagangai.
2. The Inspector of Police,
District Crime Branch,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

PKN

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